IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/10/2002

CORAM

THE HONOURABLE MR. JUSTICE E. PADMANABHAN

W.P. NO. 25274 OF 2002
and
W.P.M.P. NOS. 47937 & 34701 OF 2002
W.V.M.P. NO. 1007 OF 2002

The Southern Railway Mazdoor Union
rep. by its General Secretary
19-B, Railway Colony
Egmore, Chennai 600 008. .. Petitioner

- Vs -

1. The Railway Board
rep. by its Chairman
Ministry of Railways
Govt. Of India
Rail Bhawan, New Delhi 1.

2. The Southern Railway
rep. by its General Manager
Park Town
Chennai 600 003.

3. Dakshin Railway Karmik Sangh
rep. by its General Secretary
Mr. K.Selvanathan
No.3, Devarajulu Naidu Street
Ayanavaram, Chennai 23.

4. The Railway Mazdoor nion
1st Floor, 19, Vacharaj Lane
Matunga (Central Railway)
Mumbai 400 019.
rep. by its Secretary
K. Nandakumar .. Respondents
(RR3 & 4 impleaded as per
orders of the Court dated
8.10.02 in WPMP Nos. 47926
& 55946 of 2002)

Petition filed under Article 226 of The Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus as stated therein.

!For Petitioner : Mr. R.Krishnamurthi, SC, for
for M/s. Jenasenan

^For Respondents : Mr. V.T.Gopalan
Addl. Solicitor General
for RR1 & 2
Mr. Sampath Kumar for R3
Mr. A.Thiagarajan for R4

:ORDER

1. The petitioner, namely, Southern Railway Mazdoor Union prays for the issue of a writ of certiorarified mandamus to call for the proceedings of the first respondent in No.E(LR)III/2000/LR 1-30 dated 26.6.2 002, quash the same and consequently direct the respondents to consider and grant recognition to union only after the membership strength of the said Unions are decided on the basis of physical verification.
2. According to the writ petitioner, (hereinafter referred to as SRMU for brevity), it is not only a registered trade union, but also a recognised union and has been striving hard to achieve better and fair conditions of service and life to its members who are employed in the Southern Railway. SRMU is one of the premier trade unions and has majority of the workmen of the Southern Railway as its members from its inception. The petitioner further claims that it commands majority even as of today. In all out of 1,32,000 employees in the category of workmen are employed by the Southern Railway. The petitioner SRMU claims that it has 1,06,000 employees on its roll as members. The SRMU is affiliated to All India Railwaymen Federation founded in 1924 , which is an Apex body enjoying the support of 12 lakh railway employees. The said All India Railwaymen Federation is recognised by the Ministry of Railways.
3. The Trade Union Act does not deal with the recognition of union. Chapter XXV of the Railway Establishment Manual deals with the recognition of service association and trade union by the Railway administration. SRMU was recognised by Railway administration way back in the year 1965. SRMU files the prescribed returns, its accounts are audited in terms of the Trade Union Act and the Railway Establishment Manual from time to time. As a recognised Trade Union, the petitioner not only enjoys but also commands considerable extent of participation in the permanent negotiation machinery at all levels. Apart from SRMU, Southern Railway Employees Sangh is another registered union recognised by the Railway Administration. The said Sangh is affiliated to National Federation of Indian Railways, which is an apex body.
4. The Railway administration instructed that the union should have atleast 15% of the employees as its members to claim recognition. On 28.10.85 the railway administration issued a circular laying down the norms for recognition of the trade unions. According to the revised norms, for the union to be recognised there must be a minimum of 30% of non-gazetted employees as its members before it is being recognised by the railway administration. The Bharatiya Railway Mazdoor Sangh, another Railwaymen Federation, which was not recognised by the Indian Railways, but various trade unions have affiliated themselves to the said apex body. Such registered trade unions have very few members from the railwaymen on its rolls and it is negligible when compared to

the membership of the petitioner union.
5. The Bharatiya Railway Mazdoor Sangh seem to have applied to the Railway board for grant of recognition, but it has not been considered in the light of the 1985 circular.
6. The Railway Board has issued a new circular dated 26.6.2002 directing the General Manager of all Indian Railways to consider the application made by the affiliates for the grant of recognition, if such trade union has a membership of atleast 30% of the non-gazetted employees they seek to represent. The said circular was issued on 26.6.2002 in supersession of the earlier circular dated 28.10.1985. The Railway administration has enabled the said Trade Unions to decide the strength of the new Unions on the basis of annual return submitted by those unions to the Registrars of Trade Unions. The circular issued is illegal and arbitrary since the existing recognised union including the petitioner represent almost the entire employees of the Southern Railway. There must be actual or factual verification of the membership strength of 30% and it should not be based upon annual reports or forms submitted by the respective Unions to the Registrar of Trade Unions and such a procedure is illegal and arbitrary, besides being inconsistent with the uniform stand taken by the Railway administration. Hence, the petitioner has come before this Court challenging the circular dated 26.6.2002.
7. The railway administration, namely, the respondents 1 and 2 have filed a counter resisting the writ petition. According to the railway administration, Bharatiya Railway Mazdoor Sangh has been pressing its claim for recognition for a very long time. In fact, during the year 1986 the said Sangh moved the Supreme Court in W.P. No.1586 of 198 6. The Supreme Court, while disposing of the writ petition on 25.1.1 989, directed the said Sangh to apply for recognition to the railways, which will be considered by the Railways in accordance with the existing rules for such recognition. The power to grant recognition vest with the General Manager of the Zonal Railways only. The constituents of Bharatiya Railway Mazdoor Sangh applied to the General Manager concerned along with necessary documents for recognition. While the said application was under consideration and the General Manager was ceased of the matter, the said Bharatiya Railway Mazdoor Sangh moved C.M.P. No.9598 of 1989 for non-compliance of Supreme Court directive dated 25.1.1989. The Apex Court issued fresh directions on 7.8.89 directing the General manager to consider the request for recognition based on information and particulars to be supplied by the Unions. The application was heard on 25.9.95 and during the hearing the said Bharatiya Railway Mazdoor Sangh withdrew the writ petition with liberty to raise a dispute and the Supreme Court had not decided the merits of the said writ petition.
8. The annual returns as prescribed under the Trade Union Act in Form "D" does not require a list of members, but it requires to state the number of members at the beginning of the year, the number of members admitted during the year and the number of members left during the year. Such annual returns, therefore, enables the Railway administration to know the membership of various trade unions without actual physical verification and it may not be necessary to undertake such a verification in the normal course. The petitioner is enjoying the recognition with all consequential facilities from the Railway Administration on the basis of the same annual returns prescribed under Form "D" without any actual verification. Hence, the petitioner has no legal basis or competence to challenge the application of the method adopted

in the case of Bharatiya Railway Mazdoor Sangh or any other union seeking for recognition.

9. The petitioner's attempt to project as if the return submitted before the Registrar of Trade Unions has no legal sanctity. It is submitted that the annual return submitted by the unions to the Registrar of Trade Unions is a reliable piece of membership strength and it cannot be rejected outright as bogus as furnishing of false return, if any, is objectionable under Section 28 (1) of the Trade Union Act. Further, the trade unions has to submit its returns during the year ending on 31st December of next preceding and they have to submit it annually to the Registrar on or before the date prescribed. Section 28 (4) of the Trade Unions Act provides that for the purposes of examining the documents referred to in Sub-section (1), (2) and (3), the Registrar or any officer authorised by him at times inspect the certificate of registration, account books, registers and other documents relating to the Trade Unions at its registered office or may even call upon the production of such documents as it may specify in this behalf. Failure to observe the said provisions of the Act attracts Section 31 (2) which is a penal provision, which provides that any person who wilfully makes or causes to be made, any false entry in, or omission from, the general statement required by Section 28 or in or from any copy of rules of alterations of rules sent to the Registrar under that Section, shall be punishable with fine.

10. The Unions do not have any unfettered freedom to claim any membership strength in the annual return forms without being prepared to face legal consequence, which includes penal consequence in case they file any fictitious or unauthorised figure or information in their return. It is further stated that the Ministry of Railways are not opposed to one union for one industry. The apprehension expressed by the petitioners are baseless. The impugned circular in no way entitle to help the union sponsored by the ruling party in the Central Government by grant of recognition to union affiliated to Bharatiya Railway Mazdoor Sangh without fulfilment of one of the basic conditions of the member strength of 30% of the total employees in the respective zones. The petitioners while insisting that the Railway should rely on actual physical verification and not the annual return submitted by a Union and accepted by the Registrar of Trade Unions in assessing the correct strength of membership, was deliberately ignoring the fact that their own claim of membership on which they are at present enjoying recognition is not based on actual physical verification. The petitioners own membership strength year after year is based on annual returns submitted by the petitioner Trade Union to the Registrar of Trade Unions in terms of the statutory provisions of the Trade Unions Act.

11. It is ironical that the same basis spelt out in the impugned order in considering the recognition of Bharatiya Railway Mazdoor Sangh' s affiliated Unions and others has been objected to by the petitioner and such objections are meaningless. The circular issued by the Railway Board or instructions have been issued on equitable consideration and to uphold justice. The contention that the impugned circular is violative of Article 14 or principles of equality is a misconception and cannot be sustained.

12. It is essential to set out certain portions of the counter affidavit filed by respondents 1 and 2 in the writ petition :-

"vi) I submit that the Petitioners, while insisting that the Respondents should rely on actual physical verification and not the annual return

submitted by a Union and accepted by the Registrar of Trade Unions, in assessing the correct strength of membership, are oblivious of the fact that their own claimed membership on which at present they are enjoying recognition and are trying to block grant of recognition to Bharatiya Railway Mazdoor Sangh, is not based on actual physical verification. On the other hand, the petitioner's own membership strength year after year is based on annual returns submitted to the Registrar of Trade Union, in terms of the Trade Union Act. It is ironical that the same basis spelt out in the impugned orders for considering recognition to Bharatiya Railway Mazdoor Sangh affiliated Unions and others has been termed as "wholly arbitrary" and "absolutely meaningless" by the petitioner, in the writ petition.

* * * * * *

viii) I respectfully submit that the regulations for recognition of Railway unions permit an employee to be a member of more than one union in the sense that the membership of multiple unions is not forbidden. Even according to the statistics given by the petitioner union in their affidavit to the counter, it is seen that two unions including the petitioner union put together have a membership which far exceeds the total number of employees. While so, it is not open to the petitioner union to object the another union complying with the same requirements as the petitioner union had done earlier to get recognition. Therefore the above said writ petition is absolutely frivolous and totally devoid of merits.

* * * * *

x(d) Notwithstanding that the minimum membership strength is a very vital condition, the Ministry of Railways or its constituent Zonal Railway have no machinery of their own to verify in a detailed objective manner the membership figures indicated by the Unions. The memberships of the Unions as certified by respective Registrar of Trade Unions are being accepted as authentic for this purpose. In other words, the figures of membership strength given by the Registrar of Trade Unions are accepted in respect of the Unions already recognised and these are expected to be furnished by the Unions annually. The method, which is rightly to be followed to assess the membership in a realistic manner, should be either through a secret ballot system or "checkoff system" (in which an employee indicates the Union to which he wished to pay subscription at the time of payment of salary). Both these systems require considerable organisational arrangements being put in place, which will necessarily imply additional expenditure, which the Railways can ill afford in their present financial status. Considering the strength of the workforce on Indian Railways, any exercise of this nature, akin to a mini general election, is bound to lead to fruitless diversion of the attention of the management and staff from the main functioning of construction, operation, maintenance and regulation of the railways, at a time when all out efforts need to be made to improve the financial position of the railways.

* * * * * *

x(i) Thus, it was decided in the Ministry of Railways at the highest level, i.e. the Minister for Railways to instruct the General Managers to consider the case of recognition of Bharatiya Railway Mazdoor Sangh and others on the basis of the rules provided for in Parts 'B' and 'C' of Chapter XXV - Indian Railway Establishment Manual - Volume II - 1990 edition and the membership strength of 30% of the total non gazetted employees of the respective zones decided on the basis of the annual return forms for the latest year submitted

by Zonal unions to the respective Registrars of Trade Union.
* * * * * *
x(k) I submit that the method of reckoning the membership strength, as spelt out in the impugned order is the very point of contention of the petitioner in support of their prayer not to consider and grant recognition to Bharatiya Railway Mazdoor Sangh. I submit the same is self defeating in as much as the petitioner's own claimed membership rests on that very basis. Since the basis on which the membership is reckoned is uniform both to the petitioner and the Bharatiya Railway Mazdoor Sangh as well, the said basis being uniformly applied by the respondents in respect of all the three contenders, namely, AIRF, NFIR and BRMS, the respondents are in the process only trying to uphold the provisions and apply them equally as enshrined in Article 14 of the Constitution of India. I therefore submit that there is nothing arbitrary or illegal in the action of the respondents, as sought to be made out in the writ petition. The petitioner themselves on the other hand, have not supported their claim of membership by any other recognised and accepted method of verification."
13. Though the Railways have no objection for physical verification or check-up system, but according to the Railways it is not humanly possible to verify either actually or physically all the members of the respective Unions as they claim and it is too costly, besides time consuming. It is further contended that the petitioner's claim of membership is accepted and recognised on the identical basis, there is no reason at all to adopt a different standard in respect of Unions who came to serve the railway employees on a later date. The said respondents 1 and 2 prayed for dismissal of the writ petition.
14. The respondents 3 and 4, who got themselves impleaded in this writ petition have taken an identical stand and contend that the circular is not liable to be interfered nor it is violative of Article 14 or any other constitutional provision. It is pointed out that neither the writ petitioner union nor the Southern Railway Employees Sangh has been recognised by physical verification of its respective members at any point of time and the only modality by which the claim of the respective Union has been accepted being as having more than 30% of non-gazetted employees as members on its rolls is by the annual return submitted by the respective Unions. It is also pointed out that SRMU claims 80% of the total employees, while the southern Railway Employees Sangh claims 72% of the employees. A third party, namely, the 3 rd respondent claims that it has 37.75% of employees as its members in the zone. There is too much discrepancy in the claim of the writ petitioner as well as other recognised Unions. The third party however states that so long as the statement that it has more than sufficient number of representatives for being recognised, the present writ petition is an attempt to delay the recognition of the 3rd respondent Union by some means or other. Identical contention has been advanced by the 4th respondent Union as well.
15. Heard Mr.R.Krishnamurthi, learned senior counsel appearing for Mr.Jenasenan, for the petitioner, Mr.V.T.Gopalan, learned Additional Solicitor General appearing for respondents 1 and 2, Mr.Sampath Kumar, learned counsel appearing for the third respondent and Mr.A. Thiyagarajan, learned counsel appearing for the fourth respondent. Respondents 3 and 4 were impleaded by order dated 8.10.2002.
16. It is the contention of Mr.R.Krishnamurthi, learned senior counsel that

the circular dated 26.6.2002 is arbitrary, illegal, violative of Article 14 and, therefore, it is liable to be quashed. It is further contended that the circular has been issued at the instance of the party which is ruling the Central Government and it is vitiated by legal mala fides.

Mr.R.Krishnamurthi, learned senior counsel, while representing that the check-off system or actual physical verification has no application to the Railways, yet sought to contend that the said system is the best system and only after such physical verification or check-off the application submitted by respondents 3 and 4 has to be taken up for consideration. The pronouncement of the Supreme Court in AIR 1991 SC 1250 (GENERAL SECRETARY, ROURKELA SRAMIK SANGH VS. ROURKELA MAZDOOR SABHA & OTHERS) is fairly admitted by Mr.R. Krishnamurthi, will have no application. However, the senior counsel relies upon the pronouncement of the Division Bench of this Court in 1995 (2) LLJ 272 and 2002 (4) SC Judgments Today 537 in support of his contention that proper check-off system should be followed.

17. Per contra, Mr.V.T.Gopalan, learned Additional Solicitor General contends that the circular, in sum and substance is the same as was in force earlier and what was the condition that has been prescribed for recognition of the petitioner union is being followed in respect of respondents 3 and 4 and there shall not be any deviation with respect to the verification of membership as claimed by respondents 3 and 4 vis-a-vis the writ petitioner and any other recognised union. It is contended that merely because the petitioner is already recognised, it cannot block other Trade Unions being recognised, provided if they establish that they represent 30% of the employees of the Railways. It is contended that the impugned circular is not violative of either Article 14 or 19 or any other Constitutional provision nor it is violative of the Trade Unions Act. The learned Additional Solicitor General took the Court through the exchange of correspondence and submitted that it is not as if the Central Government has taken up the cause of the particular Union, but the Railway Board has considered the request of various other Trade Unions and in that background the impugned circular has been issued, which circular in no way runs counter to the earlier circular in terms of which the writ petitioner Trade Union was recognised by the General Manager.

18. Mr.Sampath Kumar, learned counsel appearing for the 3rd respondent and Mr.A.Thiyagarajan, learned counsel appearing for the fourth respondent supported the stand taken by the learned Additional Solicitor General.

19. The only point that arises for consideration in this writ petition is :-

"Whether the impugned circular is liable to be quashed as violative of Article 14 or vitiated by legal mala fides or violative of any other statutory provision or rule or regulation prescribed in this behalf ?"

20. Before taking up the point for discussion, it is relevant to extract the two circulars, namely, the Railway Board circular dated 28.10 .1985 as well as the circular impugned in this writ petition. The Railway Board circular dated 28.10.1985 reads thus :-

"No.E(LR)I/83/NMI-23 Dated 28.10.1985
New Delhi

All General Managers
Indian Railways

Sub : Condition for recognition of Unions

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Vide Recommendation No.80 of Part IX of the Report of Railway Reforms Committee, the Norms for recognition of Trade Unions are mentioned as under:-

(a) There should be a stipulation that Union/Association represents all classes of Railway employees; and

(b) The Union should have a Membership of atleast 30% of the nongazetted employees they seek to represent.

2. The above recommendation of R.R.C. has been accepted by Railway Board and necessary action has been taken accordingly.

3. As regards item (a) it may be mentioned that para 3612 of the Indian Railways Establishment Manual, which inter-alia lays down the conditions precedent to the recognition of a Union is clear and covers this part of the recommendation. Regarding (b), in Railway Board's letter No.D(L)61/UTI-95-1 dated 19.9.61, it was laid down that the minimum percentage of membership for granting recognition to Unions will be 15%. The same should now be modified to 30% as recommended by R.R.C.

4. It may, however, please be noted that on the basis of this letter, Railway Administration should not grant recognition to any Union which has not so far been accorded recognition or withdraw recognition from any recognised Union without the prior approval of Railway Board."

21. Apart from the said circular, Chapter XXV of the Railway Manual prescribes the rules for service associations of Railway servants. The relevant clause reads thus :-

"2512. Recognition will not ordinarily be granted or continued to any association unless it complies with the following conditions:-

(i) it must consist of a distinct class of Railway servants and must not be formed on the basis of any caste, tribe or previous denomination or of any group within or station of such caste, tribe or religious denomination:

(ii) all railway servants of the same class must be eligible for membership:

(iii) it must be registered under the Indian Trade Unions Act."

"2513. Government may require the regular submission of copies of the rules of any recognised association of its annual accounts and of its list of members."

There is no controversy with respect to Chapter 25 of The Railway Establishment Manual as well as the circular dated 28.10.1985, which is in force since 1985 onwards.

22. The circular, which is impugned in this writ petition reads thus :-

"No.E(LR)III/2000/LR1-30

Dated: 26.6.2002

The General Managers

All Indian Railways

Sub : Request by Bhartiya Railway Mazdoor Sangh and others for grant of recognition

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The Railways are aware that Bhartiya Railway Mazdoor Sangh and others have been requesting for recognition for a long time. The rules for recognition are contained in Part 'B' and 'C' of Chapter XXV of IREM, Vol.II 1990.

On application by the affiliates of Bhartiya Railway Mazdoor Sangh and others to your Railway for grant of recognition, you shall consider them on the basis of above and that the "Union should have a membership of atleast 30% of the non-gazetted employees, they seek to represent". The Membership strength of 30% of the total non-gazetted employees of the respective zones will be decided on the basis of the Annual Return forms for the latest year submitted by the zonal Unions to the respective Registrar of Trade Unions and as Certified/accepted by him.

This supersedes Railway Board's letter No.E(LR)I/83/NMI-23 dated 28.1 0.1985."
23. A perusal of the circular dated 28.6.2002 would show that this circular supercedes the earlier circular dated 28.10.1985. As seen from the circular dated 26.6.2002, it is not only Bharatiya Railway Mazdoor Sangh, but also others who have been approaching the Railway Board and Railway Administration for recognition for a long time since. The said Bharatiya Railway Mazdoor Sangh also moved the Supreme Court on the earlier occasion and it is not as if the Bharatiya Railway Mazdoor Sangh has come into force for the first time after the present Central Government has come into power. Therefore, it cannot be claimed that Bharatiya Railway Mazdoor Sangh is given a favourable treatment either directly or indirectly by way of relaxation of the standards prescribed for recognition of the Trade Unions.
24. A perusal of para-2 of the circular impugned dated 26.6.2002 like the circular dated 28.10.1985 prescribes that the union should have a membership of atleast 30# of the non-gazetted employees they seek to represent. The claim of unions that they represent 30% of the non-gazetted employees in the respective zones has to be decided on the basis of annual returns or forms or declarations made for the latest year submitted by the Zonal unions to the respective Registrars of Trade Unions and is certified or accepted by the said Registrar. This was exactly the procedure, which was adopted when the writ petitioner and one another registered trade union were recognised. It is nobody's case that the total number of members of each recognised union has either been verified by head counting or by a check-off system or by secret voting of the Railway employees of the Zone.
25. It is fairly admitted by Mr.R.Krishnamurthi that dual membership is permitted in the by-laws of some of the trade unions and, therefore, there is discrepancy in the claim of total membership either by the writ petitioner Union or by the other Unions. Each one claim so much of membership and if they are aggregated together it may even double the workmen employed in the Railways. All that is required or prescribed by the impugned circular being that the Union has to represent 30% of the workmen employees and the return or Declaration filed before the Registrar of Trade Unions as well as the forms filed could be the basis of such claims. In other words, it is not necessary to adopt a check-off system or follow a method of head counting., when valid

material is available and which was the practice adopted for decades.
26. Though it is attractively suggested that the writ petitioner would place the funds required for physical verification or head counting, on behalf of the railways it is stated that they have taken a policy decision as of today not to change the system as the Indian Railways has the highest employees and if such a system has to be introduced in one railway it has to be introduced in all the other railways, which will lead to unnecessary complications and also result in substantial expenditure. It is neither necessary nor warranted to resort to such a procedure.
27. The learned Additional Solicitor General as well as Mr.Sampath Kumar rightly pointed out that each of the Trade Unions, which represent employees of the railways have to file the requisite forms, Declarations and returns in terms of the provisions of the Trade Unions Act and in case a false statement or return is filed, they are liable to be prosecuted. That apart, the audited accounts are being filed and it is certified by Chartered Accountant as well. Definitely certain amount of sanctity should be attached to the returns or forms or Declarations filed by the respective Unions before the Registrar of Trade Unions.
28. While contending so, it is rightly pointed out by the counsel for the respondents that the petitioners, who have secured recognition on the earlier occasion by adopting the same procedure now cannot contend that respondents 3 and 4 should be subjected to a different scale or procedure or head counting or check-off system. This contention advanced by the learned Additional Solicitor General and Mr.Sampath Kumar deserves acceptance and it has to be sustained. One way of finding out the membership of the particular Trade Union is accepting the return filed by the Trade Union or other forms or declaration before the Registrar of Trade Unions as was hitherto done before and there is no illegality in the said procedure nor it is violative of Article 14.
29. As regards the legal mala fides, it is submitted that there is no basis at all and such legal mala fides cannot be assumed on mere surmises or conjectures. As already pointed out, it is not only the respondents 3 and 4 who seek for recognition, but also various other unions and they are not the members of the ruling party. On the other hand, they have been agitating for such a request for several years, besides moving the Supreme Court in this behalf. The legal mala fides advanced by the petitioner cannot be sustained and it has to be negatived.
30. Though Mr.R.Krishnamurthi, learned senior counsel more strenuously contended that check-off system is the best system and secret ballot has to be conducted as was ordered by the Division Bench of this Court in 1995 (2) LLJ 272. It is true that such a system is a laudable one, but the Railways cannot be compelled to adopt such a system as it is not only practicable, but also costlier and it may not at all be necessary once the forms prescribed or declaration prescribed or the returns prescribed in the Trade Unions Act and the particulars set out therein is adopted as one of the criteria to find out whether the particular Trade Union represents 30% of the employees of the Zonal Railway.
31. There is no arbitrariness in the circular impugned nor it is violative of Article 14 nor it is violative of any other provision or pronouncement of the Apex Court. When more than one system is available and if such a system is being adopted by the Railways all these years, which was also the procedure

adopted in the case of the writ petitioner, there is no reason or rhyme in the contention that the impugned circular is arbitrary or violative of Article 14. The pronouncement in GENERAL SECRETARY, ROURKELA SRAMIK SANGH VS. ROURKELA MAZDOOR SABHA & OTHERS reported in AIR 1991 SC 1250 is being relied upon, but the very same judgment makes it clear that the principles laid down, it has been made clear do not apply to Railways. Excepting contending that the circular is violative of Article 14, no authority has been cited in support and there are no merits in the contention advanced by the petitioner.

32. It is rightly pointed out by the learned Additional Solicitor General that it is not open to the petitioner-Union to block or obstruct any other registered Trade Union coming forward to represent 30% of the workers if they are in a position to substantiate that they also have 30% of the railway employees as members and those Unions could also be recognised in terms of the existing rules. This contention of the learned Additional Solicitor General deserves to be sustained.

33. In the foregoing circumstances, this writ petition is dismissed as devoid of merits. Consequently, the order of interim stay granted in WPMP No.34701 on 16.7.2002 is vacated and it is dismissed. Consequently, WVMP No.1007 of 2002 is allowed. W.P.M.P. No.47937 of 2002 is closed. Parties shall bear their respective costs.

11.10.2002
Index : Yes
Internet : Yes
GLN

To
1. The Railway Board
rep. by its Chairman
Ministry of Railways
Govt. Of India
Rail Bhawan, New Delhi 1.

2. The Southern Railway
rep. by its General Manager
Park Town
Chennai 600 003.